

SULLIVAN, HILL, LEWIN, REZ & ENGEL

Electronically Filed: October 3, 2013

A Professional Law Corporation

James P. Hill, CA SBN 90478 (Pro Hac Vice)

Jonathan S. Dabbieri, CA SBN 91963 (Pro Hac Vice)

Elizabeth E. Stephens, NV SBN 5788

228 South Fourth Street, First Floor

Las Vegas, NV 89101

Telephone: (702) 382-6440

Fax Number: (702) 384-9102

Attorneys for Chapter 7 Trustee,

William A. Leonard, Jr.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re) Case No. BK-S-09-32824-RCJ (Lead Case)

ASSET RESOLUTION, LLC,)
) Jointly Administered with Case Nos.:
) BK-S-09-32831-RCJ; BK-S-09-32839-RCJ;
) BK-S-09-32843-RCJ; BK-S-09-32844-RCJ;
 Debtor.) BK-S-09-32846-RCJ; BK-S-09-32849-RCJ;
) BK-S-09-32851-RCJ; BK-S-09-32853-RCJ;
) BK-S-09-32868-RCJ; BK-S-09-32873-RCJ;
) BK-S-09-32875-RCJ; BK-S-09-32878-RCJ;
) BK-S-09-32880-RCJ; BK-S-09-32882-RCJ

Affects:

☐ All Debtors

☒ Asset Resolution, LLC, 09-32824

☐ Bundy 2.5 Million SPE, LLC, 09-32831

☐ Bundy Five Million SPE, LLC, 09-32839

☐ CFP Anchor B SPE, LLC, 09-32843

☐ CFP Cornman Toltec SPE, LLC, 09-32844

☐ CFP Gess SPE LLC, 09-32846

☐ CFP Gramercy SPE, LLC, 09-32849

☐ Fiesta Stoneridge, LLC, 09-32851

☐ Fox Hills SPE, LLC, 09-32853

☐ HFAH Monaco SPE LLC, 09-32868

☐ Huntsville SPE LLC, 09-32873

☐ Lake Helen Partners SPE LLC, 09-32875

☐ Ocean Atlantic SPE LLC, 09-32878

☐ Shamrock SPE LLC, 09-32880

☐ 10-90 SPE, LLC, 09-32882

Chapter 7

**STATEMENT BY CHAPTER 7 TRUSTEE
IN OPPOSITION TO MIDLAND'S
MOTION FOR STAY PENDING APPEAL
AND IN SUPPORT OF CANGELOSI'S
OPPOSITION AND CROSS-MOTION
(Margarita Annex)**

Date: October 3, 2013

Time: 9:00 a.m. PST

Ctrm: RCJ – Courtroom 6

Bruce R. Thompson Federal Building

400 S. Virginia Street

Reno, NV 89501

Judge: Hon. Robert C. Jones

///

///

William A. Leonard, Jr., chapter 7 trustee (the “Trustee”), submits the following:

I.

**THE TRUSTEE SUPPORTS DENYING MIDLAND’S MOTION AND GRANTING
CANGELOSI’S CROSS MOTION**

1. The Trustee joins in the opposition of TDI Representative Donna M. Cangelosi to Midland Pacific Building Corporation’s motion for stay pending appeal. The Trustee also joins in support of Cangelosi’s cross-motion contained in the opposition with its request for (a) court approval of a structure of the October 4, 2013 non-judicial foreclosure, under the direct lender trust deed, of the real estate collateralizing the Margarita Annex loan and (b) a request for an expedited trial schedule to determine the merits of Midland’s rights, if any, in the real estate.

2. The Asset Resolution bankruptcy estate (the “Estate”) holds approximately 24.42% of the beneficial interests in the Margarita Annex loan. Those interests are worth over \$3.3 million if the real estate can be sold after foreclosure under a purchase and sale agreement to IPDC Construction, Inc. *See* AR Bk Doc. 2220 at 10/lines 3-5. Accordingly, the Estate has a direct and significant financial interest in the prompt determination of the validity and priority of the direct lender trust deed vis-a-vis any purported interest held by Midland.

3. On May 3, 2012, this Court entered an order that, among other things, authorized Cangelosi to commence a non-judicial foreclosure of the real estate on a whole loan basis. *See* AR Bk Doc. 1774 at 21/lines 1-7. The Trustee is in favor of the foreclosure going forward tomorrow: it will wipe out any junior liens in the real estate, leaving the direct lenders and Midland free to determine their competing claims without the risk of the current owner being put into an involuntary bankruptcy by his many judgment creditors, which could tie up the real estate

1 for years. The Trustee also supports the foreclosure structure proposed by Cangelosi in her cross-
2 motion and proposed order.

3 4. The Trustee also is in favor of the expedited schedule for a determination of the
4 validity and priority of Midland's rights, if any, laid out in the proposed order submitted by
5 Cangelosi. *See* AR Bk Doc. 2265-2. The only obstacle to a \$3.3 million liquidity event for the
6 Estate and its creditors is a prompt, final determination of Midland's claims to the real estate.

7 **II.**

8 **CONCLUSION**

9 It is requested that the Court deny Midland's "emergency" motion to stay (a) the effects
10 of this Court's September 17th order and (b) the October 4th non-judicial foreclosure sale. It is
11 also requested that the Court grant Cangelosi's cross-motion and approve the foreclosure
12 structure and trial schedule therein.

13 Dated: October 3, 2013

SULLIVAN, HILL, LEWIN, REZ & ENGEL
A Professional Law Corporation

14 By: /s/ Jonathan S. Dabbieri
15 James P. Hill (Pro Hac Vice)
16 Jonathan S. Dabbieri (Pro Hac Vice)
17 Elizabeth E. Stephens
Attorneys for Chapter 7 Trustee,
William A. Leonard, Jr.